

**Before the Iowa Public Employment Relations Board
IN THE MATTER OF THE ARBITRATION BETWEEN**

CITY OF RED OAK, IOWA

and

TEAMSTERS
Local #238
(Police)

**ARBITRATION
OPINION AND AWARD**

Ruth M. Weatherly J.D. MBA
Arbitrator

Interest Arbitration
July 2007 contract

Issued: June 28, 2007

Public Employment Relations Board CEO #737 Sector 1

Appearances

For the City of Red Oak:

Jack Lipovac, SPHR
HR - OneSource
5619 NW 86th Street
Johnston, Iowa 50131

Brad Wright
City Administrator
601 N. 6th Street
P.O. Box 475
Red Oak, Iowa 51566

For Teamsters Local 238 (Police):

Michael Stanfill
V.P., Business Agent
Teamsters Local #238
2425 Delaware Ave.
Des Moines, Iowa 50317

Officer Dallas Morrison
Red Oak, Iowa 51566

Jurisdiction and Introduction

This proceeding comes before the arbitrator pursuant to Iowa Code Chapter 20. The police department bargained-for employees¹ of the

¹ Defined by the parties' agreement (Article 1, Recognition) as those permanent employees who have successfully completed probationary periods, in the job classifications of sergeant, detective/investigator, senior patrolman, patrolman, permanent reserve officers, and records employees.

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City of Red Oak (hereinafter "City") are represented by Local 238 of the International Brotherhood of Teamsters² (hereinafter "Union"). The parties are bound by a contract effective from July 1, 2004 until June 30, 2007.

The City and the Union had negotiated for the terms of a new contract, but failed to reach agreement on the single issue of wages. The matter was submitted to a fact-finder; the hearing on May 4, 2007 resulted in a recommendation by Hugh J. Perry, issued May 15, 2007.

By a letter dated June 6, 2007, PERB notified the undersigned that the parties had selected me to hear this matter in binding arbitration. Through telephone calls, we agreed upon June 19, at 12:30 p.m., at the Red Oak City Hall as the time and place for the hearing. All four persons attending the hearing agreed by oath/affirmation that they would give truthful testimony and/or evidence. Pursuant to PERB rule 7.5(6) the hearing (beginning at 12:30 and concluding at shortly after 1:30 p.m.) was tape-recorded.

The City and the Union each submitted an exhibit binder. The parties had the opportunity to present all evidence and oral argument in support of their respective positions. Post hearing briefs were not sought or filed.

On the record, the parties agreed that there was no issue of negotiability, that they did not have an independent impasse agreement in lieu of the statutory provisions, and that the only issue for decision is wages. The parties had waived the March 15 statutory deadline for issuance of the decision and award. We determined at the opening of the hearing that based upon the 15--

² Teamsters Local 147 was the original certified bargaining representative in 1985. Local 147 subsequently merged with Local 238, based in Cedar Rapids, as Mr. Stanfill explained at the hearing.

day deadline for a decision herein, counting June 19 as "day 1" results in mailing a decision on or before July 3, 2007.

Additional Factual Background

Relevant facts in addition to those included above are:

- Red Oak is the county seat of Montgomery County, in the southwest corner of Iowa, in the second tier of counties "up" from the Iowa -- Missouri border.
- Red Oak's 2000 census population was 6,197
- The parties negotiated ten multi-year contracts since bargaining unit certification in 1985
- The police unit currently includes 12 full-time employees

For FY 2006, the wages are:

Sergeant/detective	\$16.97
Senior patrolman	16.47
Master patrolman	15.85
Patrolman	15.30
Part-time reserve	10.13
Records supervisor	12.81
Records employee	12.08
Records part-time	8.87

According to Appendix A of the parties' current contract, the sergeant/detective wages were increased 2.5% for 2004, 2.5% for '05 and 3% for '06; part-time reserve officers were frozen for the current contract, and all other wages increased 2% for '04, 2.25% for '05 and 2.5% for '06.

Statutory Criteria for Interest Arbitration

Section 20.22, paragraphs 3 and 11 of the Iowa Public Employment Relations Act require that the arbitration award be restricted to the most reasonable offer, in the judgment of the arbitrator, of the final offers on each impasse item submitted by the parties, or the recommendations of the fact-finder on each impasse item. The specific criteria to be used in assessing the reasonableness of the parties' arbitration proposals, as set forth in Section 20.22(9) in addition to any other relevant factors, are:

- past collective bargaining between the parties

- comparison of wages, hours, and conditions of employment of the involved employees with those of other public employees doing comparable work, with consideration of factors peculiar to the area and the classifications involved
- the interests and welfare of the public, ability of the employer to finance economic adjustments, and the effect of such adjustments on normal standards of service
- power of the public employer to tax and to appropriate funds to conduct its operations

Impasse Items and Final Positions

The parties agreed that the only issue at impasse is wages. The final positions and rationale are summarized briefly as follows.

The City

The City proposes an increase of 3% for the fiscal year beginning July 1.

The City compared 17 other towns, located throughout Iowa, with Red Oak, to show that Red Oak's population (2000 census) is about in the middle, as is its 2006 police starting salary. Red Oak's top wage for '06 is second lowest among that group.³ In a comparison among 9 of those towns, (ones that appear to be geographically closer to Red Oak) the average police officer starting rate (2006) is \$15.35, 5 cents higher than the Red Oak patrolman wage.⁴ Red Oak's top salary is \$16.47, second lowest among the smaller comparison group.⁵ City Administrator Wright referenced questions of comparability of top salary calculations, due to differences among the cities as to which positions are included or excluded from the bargaining units.

The City's tax valuation history since 2002 shows a 1.6% total decrease, while the budget for police salaries has increased 4.8% from the 03-04 to 07-08 fiscal years.⁶ Decreases in the police

³ Pages 1,2 & 4 of City binder, "Comparisons"

⁴ Page 3

⁵ Page 5

⁶ Pages 1 & 2 of City binder, "Exhibits"

salary budget from 03-04 to 04-05 and to 05-06 were due to attrition of personnel.

The City expressed concern for budgetary issues; between 2003 and 2005 Red Oak ceased receiving \$128,000 in state revenues. Also, the City pays for dispatch services from Montgomery County, and has allocated funds for those services from Local Option Sales tax revenues; those revenues are subject to renewal by public referendum, thus the City may not choose to rely upon that source for its long-term budget planning.

The City argued that 3% is a more appropriate wage increase than 3.5% because of the cost of impasse hearings, for which the City had not budgeted.

The Union

The Union seeks a 7% wage increase.

The Union utilized a comparison group of 9 towns, generally located in the southwest quarter of the state; Denison and Centerville appear to be the two most distant from Red Oak. The population comparison is from 7633 to 5385, with Red Oak about in the middle at 6197. The Union's "Police 2006" chart appears to show that only two other cities (Centerville and Clarinda) have equal starting and maximum pay rates for "police" ("Patrolman" in Red Oak) as is the case in Red Oak. In both the "beginning" and "maximum" comparisons, Red Oak is below the middle of the group.⁷ Projecting the Union's 7% requested increase would place the police (assumed to be the Patrolman rank) below the average beginning rate by 33 cents and below the average maximum by \$1.71.⁸

⁷ Union exhibit binder, 1st page following map

⁸ 3rd page following map

The Union argued for the 7% increase, among other reasons, based upon the rationale of needing to "make up" for the years when they accepted 2 to 2.5% increases while other cities received higher rates of increase.

Analysis and Conclusions

Past Bargaining

The City and the Union have negotiated ten multi-year contracts since the certification of the bargaining unit in 1985. The expiration of the current contract on June 30 completes a three-year agreement. Sergeant/detective wages increased 2.5% for 2004 and 2005, and 3% for '06; part-time reserve officer wages were frozen for the current contract, and wages for all other positions increased 2% for '04 2.25% for '05 and 2.5% for '06. Fact-finder Perry noted that police wage adjustments for the past 5 years averaged 2.95%.⁹

Based upon the above, and considering the other statutory issues as well, the Union's 7% request for the upcoming year does not appear to be a warranted position in view of recent wage increase patterns. Even if the Union accepted lower settlements in prior years and now seeks to "make up" for it, there is nothing to suggest that such is based on any actual or tacit agreement with the City; and, a 7% increase in one year is not a presently a reasonable position.

Fact-finder Perry commented upon the lack of any contractual provisions for movement through the ranks from Patrolman to higher positions. He found that while officers have "moved

⁹ Perry May 15 Recommendation, page 2

fairly regularly through the ranks" that had been "less true in recent years."¹⁰

Comparison of Wages, Hours, and Working Conditions with other Employees doing Comparable Work

Primarily because of their closer proximity to Red Oak, the comparisons achieved by the Union's list, and by the City's "short" list of 8 cities are more relevant than the City's longer list. Difficulties exist in using the "top" wage comparisons, due to variations among the cities as to which job positions are in the bargaining units.

Officer Morrison spoke to the issue of comparisons with cities for which the police duties may be affected by proximity to interstate highways, and he also mentioned a possible comparison based on actual work done, such as number of calls. However, not enough information was made available to allow either of these potentially relevant issues to be used as a decision criterion herein.

The City's "short list" 2006 comparisons shows that Red Oak's police starting salary is at about the mid-point between Atlantic (at \$16.32) and Clarinda (at \$14.42) and Red Oak's \$15.30 is 5 cents below the average of the 9 comparison towns. Red Oak's top 2006 wage of \$16.37 is well below the \$17.32 average for the same comparable towns. A 3.5% increase will place Red Oak only at \$15.84 to start, only 13 cents above the average for 2007, and below the starting rates for Atlantic, Creston, and Glenwood. Atlantic and Creston have 2000 census populations within about 22% and 17% respectively larger than Red Oak; Glenwood is 13%

¹⁰ Perry May 15, 2007 Recommendation, page 2. Coincidentally, the undersigned, having then not yet read Fact-finder Perry's recommendation, sought clarification at the hearing regarding progression through police titles and rates of pay. Both City Administrator Wright and Officer Morrison alluded to police morale issues. As was the case with Fact-finder Perry, while the issue is not within my jurisdiction, I suggest that the parties attempt in subsequent negotiations to establish criteria and a mechanism for progression through the police position ranks. And, the parties may want to consider revision of the job position titles to eliminate ones that appear to be gender-specific.

smaller. At the June 19 hearing, the Union called specific attention to the "Police - City & Rank" 2006 beginning and maximum wage comparisons. Perry and Norwalk are present on these lists, while not on the City "short" list; Harlan and Osceola are on the City list, and not on the noted Union list. I am inclined to discount Norwalk and Perry from the comparison, due to their proximity to Des Moines. Their exclusion changes the beginning wage average by 7 cents (higher), and the maximum by 22 cents lower. Clarinda is not in the Union's "Projection for 2007" chart. Omitting Norwalk and Perry from that comparison increases the beginning average rate by 5 cents; it increases the maximum for 2007 projections by 67 cents. The Union's 7% request would increase Red Oak's "police" (patrolman) rate from \$15.30 to \$16.37; this would be in the middle of the pack for "beginning" rates, and second from the lowest rate for the maximum wage. However, there appear to be only 2 persons in the Patrolman title in Red Oak. Considering the range of settlements for 2007 among the primary comparison towns (from 0% for Clarinda to 3.6% for Centerville) the Union proposal of 7% is not justified.

Power of the City to Tax and to Appropriate Funds;
Interests of the Public; Ability of City to finance
Adjustments and Effect on Normal Services

The City referenced the loss of state revenues, in the amount of \$128,000 between 2003 and 2005. Also, the City's net change in taxable valuation declined 1.6% between 2002 and 2006. The City did not claim that it was unable to finance a salary increase for the police employees, or that City police services would be affected in any particular fashion by increased wages. Testimony did indicate that budgetary concerns exist, as can be assumed to be the case in most rural Iowa towns; this factor weighs against the 7% increase requested by the Union. The City has previously made budget adjustments, including contracting dispatch duties to Montgomery County, and using Local Option Sales Tax ("LOST") revenues for the public safety budget. Other adjustments, which

will, no doubt, not be simple or easy, may be necessary in the event that LOST revenues do not remain available. Such a speculative situation, however, should not stand in the way of a reasonable wage increase of 3.5% for the year beginning July 1 for the police employees.

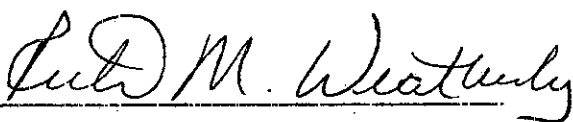
Other factors

Public employees in Iowa are prohibited from striking. It is commonly understood that the statutory right to seek and resort to binding interest arbitration is the trade off for that lack of the employees' ultimate bargaining tool of strikes. The City may well think that resort to fact-finding and arbitration is costly and/or unwise, but financially punishing a party for doing so is not appropriate. The City's suggestion that it should have the benefit of a 3% rather than a higher wage award for the police because the City had not budgeted for the cost of impasse hearings is simply not a viable position.

Award

For the reasons stated above, after due consideration of all statutory requirements, and review and consideration of all evidence and arguments presented by the parties, I find Fact-finder Perry's recommendation on wages to be the most reasonable compared with the 3% City proposal and the Union 7% position. Therefore, the wages for the police bargaining unit employees shall be increased by 3.5% effective and for the year beginning July 1, 2007.

Respectfully submitted,


Ruth M. Weatherly, J.D., MBA, Arbitrator

date: 6/28/2007

CERTIFICATE OF SERVICE

I certify that on the 28th day of June, 20 07, I served the foregoing Award of Arbitrator upon each of the parties to this matter by (_____ personally ~~delivering~~) (_____ mailing) a copy to them at their respective addresses as shown below:

Jack Lipovac
HR OneSource
5619 NW 86th St
Johnston IA 50131

Brad Wright
Red Oak City Admin
P.O. Box 475
Red Oak IA 51566

Michael
Stantill
V.P. Bus. Agent
Teamsters 238
2425 Delaware Ave
Des Moines IA 50317

I further certify that on the 28th day of June, 20 07, I ^{did}~~will~~ submit this Award for filing by (_____ personally ~~delivering~~) (_____ mailing) it to the Iowa Public Employment Relations Board, 510 East 12th Street, Suite 1B, Des Moines, IA 50319.

Ruth M. Weatherly
Ruth M. Weatherly, Arbitrator
(Print Name)